

HOUSE BILL No. 1533

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-13; IC 5-8-5.

Synopsis: Elective or judicial vacancies caused by death. Provides that any person who knows of the death of an elective or a judicial officer may notify: (1) the secretary of state, in the case of a state elective or judicial officer; or (2) the circuit court clerk of the county in which the elective or judicial officer resided, in the case of a local elective or judicial officer. Requires the secretary of state or the circuit court clerk to give notice of the death to: (1) the person that must give notice of any meeting or caucus required to fill the vacancy caused by the death; or (2) if no meeting or caucus is required to fill the vacancy, the person who has the power to fill the vacancy. Prohibits, in all procedures to fill a vacancy caused by death: (1) the person who must give notice of a caucus or meeting; or (2) if no caucus or meeting is required, the person who has the power to fill the vacancy; from acting until that person has received notice of the death from the secretary of state or the circuit court clerk. Changes the time limit for holding a meeting or caucus to fill a vacancy resulting from death from not later than 30 days after the vacancy occurs to not later than 30 days after the person providing notice of the caucus or meeting receives notice of the death from the secretary of state or the circuit court clerk. Makes conforming amendments.

Effective: January 1, 2002.

Dillon

January 11, 2001, read first time and referred to Committee on Elections and Apportionment.



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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1533

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-13-4-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2002]: Sec. 3. (a) **Except as provided in**
3 **subsection (c)**, a vacancy that occurs, other than by resignation, in a
4 state office other than governor, lieutenant governor, or a judicial office
5 shall be certified to the governor by the circuit court clerk of the county
6 in which the officer resided.
7 (b) A vacancy in a state office other than governor, lieutenant
8 governor, or a judicial office shall be filled by appointment by the
9 governor. The person who is appointed holds office for the remainder
10 of the unexpired term and until a successor is elected and qualified.
11 (c) **If a vacancy in a state office subject to this section occurs due**
12 **to the death of the officer, the secretary of state shall certify the**
13 **vacancy to the governor by notifying the governor of the death of**
14 **the officer under IC 5-8-5. The governor may not fill the vacancy**
15 **by appointment under subsection (b) until the governor receives**
16 **notice of the death from the secretary of state.**
17 SECTION 2. IC 3-13-5-1, AS AMENDED BY P.L.26-2000,

2001

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SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) A vacancy in a legislative office shall be filled by a caucus comprised of the precinct committeemen from the senate or house district where the vacancy exists who represent the same political party that elected or selected the person who held the vacated seat.

(b) Not later than thirty (30) days after the vacancy occurs (or as provided in ~~subsection~~ **subsections (c) and (f)**), the caucus shall meet and select a person to fill the vacancy by a majority vote of those casting a vote for a candidate, including vice committeemen eligible to vote as a proxy under section 5 of this chapter.

(c) A state chairman may give notice of a caucus before the time specified under subsection (b) if a vacancy will exist because the official has:

(1) submitted a written resignation under IC 5-8-3.5 that has not yet taken effect; or

(2) been elected to another office.

(d) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of the caucus under this chapter.

(e) The person selected must reside in the district where the vacancy occurred.

(f) If a vacancy in a legislative office exists because of the death of the elective officer, the caucus shall meet and select a person to fill the vacancy not later than thirty (30) days after the state chairman receives notice of the death of the elective officer from the secretary of state under IC 5-8-5.

SECTION 3. IC 3-13-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. **(a)** The state chairman of the political party that elected or selected the person who held the vacated seat shall set the place, date, and time of a caucus meeting. The chairman shall send a notice, by first class mail, of the purpose, place, date, and time of the meeting to all precinct committeemen in the caucus at least ten (10) days before the meeting.

(b) If a vacancy in a legislative office exists because of the death of the elective officer, the state chairman may not send notice of the caucus meeting until the state chairman receives notice of the death of the elective officer from the secretary of state under IC 5-8-5. After receiving notice of the death from the secretary of state, the state chairman shall send notice of the caucus meeting to all

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precinct committeemen in the caucus at least ten (10) days before the meeting, as required by subsection (a).

SECTION 4. IC 3-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) A vacancy that occurs, other than by resignation, in the office of judge of a circuit, superior, probate, or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided. **If a vacancy occurs due to the death of the judicial officer, the circuit court clerk shall certify the vacancy to the governor by notifying the governor of the judicial officer's death under IC 5-8-5.**

(b) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. **However, if a vacancy occurs due to the death of the judicial officer, the governor may not fill the vacancy until the governor is notified of the judicial officer's death by the circuit court clerk under IC 5-8-5.** The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-5-5.1-37.1.

(2) IC 33-5-5.1-41.1.

(3) IC 33-5-29.5-39.

(4) IC 33-5-40-44.

However, if a vacancy occurs due to the death of the judicial officer, the governor may not fill the vacancy until the governor is notified of the judicial officer's death by the circuit court clerk under IC 5-8-5. The person who is appointed holds office for the remainder of the unexpired term.

SECTION 5. IC 3-13-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) A vacancy in a county elected office (other than county council) not covered by section 1 of this chapter shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give notice of the meeting. **which Except as provided in subsection (c), the meeting**



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shall be held ~~within~~ **not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

(b) Selections made under this section (or under IC 3-2-10-3(a) before its repeal on March 4, 1986) are appointments pro tempore for the purposes of Article 2, Section 11 of the Constitution of the State of Indiana.

(c) If a vacancy occurs due to the death of the elective officer, the meeting described in subsection (a) must be held not later than thirty (30) days after the county auditor receives notice of the elective officer's death from the circuit court clerk under IC 5-8-5. The county auditor may not give notice of the meeting under subsection (a) until the county auditor receives notice of the death from the circuit court clerk under IC 5-8-5.

SECTION 6. IC 3-13-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. **(a)** A vacancy in a county council not covered by section 1 of this chapter shall be filled by a majority of the remaining members of the council at a regular or special meeting. The county auditor shall give notice of the meeting. ~~which~~ **Except as provided in subsection (b), the meeting** shall be held ~~within~~ **not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(b) If a vacancy occurs due to the death of the county council member, the meeting described in subsection (a) shall be held not later than thirty (30) days after the county auditor receives notice of the county council member's death from the circuit court clerk under IC 5-8-5. The county auditor may not give notice of the meeting under subsection (a) until the county auditor receives notice of the death from the circuit court clerk under IC 5-8-5.

SECTION 7. IC 3-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) A vacancy that occurs, other than by resignation, in the office of judge of a city court shall be certified to the governor by the circuit court clerk of the county in



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1 which the judge resided. **If a vacancy occurs due to the death of the**
 2 **judicial officer, the circuit court clerk shall certify the vacancy to**
 3 **the governor by notifying the governor of the judicial officer's**
 4 **death under IC 5-8-5.**

5 (b) A vacancy in the office of judge of a city court shall be filled by
 6 the governor. **However, if a vacancy occurs due to the death of the**
 7 **judicial officer, the governor may not fill the vacancy until the**
 8 **governor receives notice of the death of the judicial officer from**
 9 **the circuit court clerk under IC 5-8-5.**

10 SECTION 8. IC 3-13-8-3 IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JANUARY 1, 2002]: Sec. 3. (a) A vacancy in the office
 12 of mayor of a first class city not covered by section 1 of this chapter
 13 shall be filled by the city-county council at a regular or special meeting.
 14 The city clerk shall give notice of the meeting. ~~which~~ **Except as**
 15 **provided in subsection (c), the meeting shall be held within not later**
 16 **than thirty (30) days after the vacancy occurs. The notice must:**

- 17 (1) be in writing;
- 18 (2) state the purpose of the meeting;
- 19 (3) state the date, time, and place of the meeting; and
- 20 (4) be sent by first class mail to each council member at least ten
- 21 (10) days before the meeting.

22 (b) The city clerk shall preside at the meeting but may not vote
 23 unless there is a tie vote among the members of the council. The
 24 council must appoint one (1) of its own members to the office. Until the
 25 vacancy is filled, the president of the council shall serve as acting
 26 mayor.

27 (c) **If a vacancy occurs due to the death of the mayor, the**
 28 **meeting described in subsection (a) shall be held not later than**
 29 **thirty (30) days after the city clerk receives notice of the mayor's**
 30 **death from the circuit court clerk under IC 5-8-5. The city clerk**
 31 **may not give notice of the meeting under subsection (a) until the**
 32 **city clerk receives notice of the death from the circuit court clerk**
 33 **under IC 5-8-5.**

34 SECTION 9. IC 3-13-8-4 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JANUARY 1, 2002]: Sec. 4. (a) A vacancy in the
 36 city-county council of a first class city not covered by section 1 of this
 37 chapter shall be filled by a majority of the remaining members of the
 38 council at a regular or special meeting. The city clerk shall give notice
 39 of the meeting. ~~which~~ **Except as provided in subsection (c), the**
 40 **meeting shall be held within not later than thirty (30) days after the**
 41 **vacancy occurs. The notice must:**

- 42 (1) be in writing;

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- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(b) The appointed member serves until a successor is elected and qualified at the next municipal or general election, whichever occurs first. The successor serves from noon January 1 following that election to noon January 1 following the next municipal election, as provided in IC 36-3-4-2. The persons appointed and elected must be resident voters in the district where the vacancy occurred, unless the vacancy occurred in an at large seat.

(c) If a vacancy occurs due to the death of the member of the city-county council, the meeting described in subsection (a) shall be held not later than thirty (30) days after the city clerk receives notice of the city-county council member's death from the circuit court clerk under IC 5-8-5. The city clerk may not give notice of the meeting under subsection (a) until the city clerk receives notice of the death from the circuit court clerk under IC 5-8-5.

SECTION 10. IC 3-13-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 5. (a) A vacancy in the office of mayor of a second class city not covered by section 1 of this chapter shall be filled as follows:

- (1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.
- (2) If the city does not have a deputy mayor, the city controller assumes the office for the remainder of the unexpired term.
- (3) If the city does not have a deputy mayor and the office of city controller is vacant, the common council shall fill the vacancy at a regular or special meeting.

(b) The city clerk shall give notice of the meeting required under subsection (a)(3). ~~which~~ **Except as provided in subsection (d), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:**

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor.

(d) If a vacancy occurs due to the death of the mayor, the meeting required under subsection (a)(3) shall be held not later



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than thirty (30) days after the city clerk receives notice of the mayor's death from the circuit court clerk under IC 5-8-5. The city clerk may not give notice of the meeting under subsection (b) until the city clerk receives notice of the death from the circuit court clerk under IC 5-8-5.

SECTION 11. IC 3-13-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6. (a) A vacancy in the office of city clerk of a second class city not covered by section 1 of this chapter shall be filled by the mayor or acting mayor, subject to the approval of the common council. **However, if a vacancy occurs due to the death of the city clerk, the mayor or acting mayor may not fill the vacancy until the mayor or acting mayor is notified of the city clerk's death by the circuit court clerk under IC 5-8-5.**

(b) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The president of the common council shall give notice of the meeting, which shall be held ~~within~~ **not later than** thirty (30) days after the appointment is made. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

SECTION 12. IC 3-13-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 7. (a) A vacancy in the common council of a second class city not covered by section 1 of this chapter shall be filled by the remaining members of the council at a regular or special meeting. The city clerk shall give notice of the meeting. ~~which~~ **Except as provided in subsection (b), the meeting shall be held ~~within~~ not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(b) If a vacancy occurs due to the death of the member of the common council, the meeting required under subsection (a) shall be held not later than thirty (30) days after the city clerk receives notice of the common council member's death from the circuit court clerk under IC 5-8-5. The city clerk may not give notice of the meeting under subsection (a) until the city clerk receives notice

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1 **of the death from the circuit court clerk under IC 5-8-5.**

2 SECTION 13. IC 3-13-8-8 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 8. (a) A vacancy
4 in the office of mayor of a third class city not covered by section 1 of
5 this chapter shall be filled as follows:

6 (1) If the city has a deputy mayor, the deputy mayor assumes the
7 office for the remainder of the unexpired term.

8 (2) If the city does not have a deputy mayor, the common council
9 shall fill the vacancy at a regular or special meeting.

10 (b) The city clerk-treasurer shall give notice of the meeting required
11 under subsection (a)(2). **which Except as provided in subsection (d),**
12 **the meeting** shall be held ~~within~~ **not later than** thirty (30) days after
13 the vacancy occurs. The notice must:

14 (1) be in writing;

15 (2) state the purpose of the meeting;

16 (3) state the date, time, and place of the meeting; and

17 (4) be sent by first class mail to each council member at least ten
18 (10) days before the meeting.

19 (c) Until the vacancy is filled, the council shall designate one (1) of
20 its members to serve as acting mayor.

21 **(d) If a vacancy occurs due to the death of the mayor, the**
22 **meeting required under subsection (a)(2) shall be held not later**
23 **than thirty (30) days after the city clerk-treasurer receives notice**
24 **of the mayor's death from the circuit court clerk under IC 5-8-5.**
25 **The city clerk-treasurer may not give notice of the meeting under**
26 **subsection (b) until the city clerk-treasurer receives notice of the**
27 **death from the circuit court clerk under IC 5-8-5.**

28 SECTION 14. IC 3-13-8-9 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 9. (a) A vacancy
30 in the office of city clerk-treasurer of a third class city not covered by
31 section 1 of this chapter shall be filled by the mayor or acting mayor,
32 subject to the approval of the common council. **However, if a vacancy**
33 **occurs due to the death of the city clerk-treasurer, the mayor or**
34 **acting mayor may not fill the vacancy until the mayor or acting**
35 **mayor is notified of the city clerk-treasurer's death by the circuit**
36 **court clerk under IC 5-8-5.**

37 (b) The common council shall vote on the question of approving the
38 mayor or acting mayor's appointment at a regular or special meeting.
39 The mayor shall give notice of the meeting, which shall be held ~~within~~
40 **not later than** thirty (30) days after the appointment is made. The
41 notice must:

42 (1) be in writing;



- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

SECTION 15. IC 3-13-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 10. (a) A vacancy in the common council of a third class city not covered by section 1 of this chapter shall be filled by the remaining members of the council at a regular or special meeting. The city executive may break any tie vote.

(b) The city clerk-treasurer shall give notice of the meeting. ~~which~~ **Except as provided in subsection (c), the meeting** shall be held ~~within not later than~~ thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) If a vacancy occurs due to the death of the member of the common council, the meeting required under subsection (a) shall be held not later than thirty (30) days after the city clerk-treasurer receives notice of the common council member's death from the circuit court clerk under IC 5-8-5. The city clerk-treasurer may not give notice of the meeting under subsection (b) until the city clerk-treasurer receives notice of the death from the circuit court clerk under IC 5-8-5.

SECTION 16. IC 3-13-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) A vacancy in the office of judge of a town court that is:

- (1) not covered by section 1 of this chapter; ~~or~~
- (2) covered by section 1 of this chapter, but ~~exists~~ **existing** after the thirtieth day after the vacancy occurs; ~~or~~
- (3) covered by section 1 of this chapter, but existing after the thirtieth day after the county chairman described in IC 3-13-11-3 received notice of the death under IC 5-8-5, if the vacancy exists due to the death of the judicial officer;**

shall be filled by the town council at a regular or special meeting.

(b) The town clerk-treasurer shall give notice of the meeting. ~~which~~ **Except as provided in subsections (d) and (e), the meeting** shall be held:

- (1) ~~within not later than~~ thirty (30) days after the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or

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(2) ~~within~~ **not later than** sixty (60) days after the vacancy occurs if the vacancy **is covered by section 1 of this chapter** and exists for more than thirty (30) days.

(c) The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) **Notwithstanding subsection (b)(1), if a vacancy:**

- (1) **is not covered by section 1 of this chapter; and**
- (2) **occurs due to the death of the judicial officer;**

the meeting required under subsection (a) shall be held not later than thirty (30) days after the town clerk-treasurer receives notice of the judicial officer's death from the circuit court clerk under IC 5-8-5. The town clerk-treasurer may not give notice of the meeting under subsection (b) until the town clerk-treasurer receives notice of the death from the circuit court clerk under IC 5-8-5.

(e) **Notwithstanding subsection (b)(2), if a vacancy:**

- (1) **is covered by section 1 of this chapter;**
- (2) **occurs due to the death of the judicial officer; and**
- (3) **exists after the thirtieth day after the county chairman described in IC 3-13-11-3 received notice of the death from the circuit court clerk under IC 5-8-5;**

the meeting required under subsection (a) shall be held not later than sixty (60) days after the county chairman described in IC 3-13-11-3 received notice of the death under IC 5-8-5.

SECTION 17. IC 3-13-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. (a) A vacancy in the office of town clerk-treasurer:

- (1) not covered by section 1 of this chapter; ~~or~~
- (2) covered by section 1 of this chapter, but existing after the thirtieth day after the vacancy occurs; ~~or~~
- (3) **covered by section 1 of this chapter, but existing after the thirtieth day after the county chairman described in IC 3-13-11-3 received notice of the death under IC 5-8-5, if the vacancy exists due to the death of the town clerk-treasurer;**

shall be filled by the town council at a regular or special meeting.

(b) The president of the town council shall give notice of the meeting. ~~which~~ **Except as provided in subsections (d) and (e), the meeting shall be held:**

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- (1) ~~within not later than~~ thirty (30) days after the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or
 (2) ~~within not later than~~ sixty (60) days after the vacancy occurs if the vacancy **is covered by section 1 of this chapter and** exists for more than thirty (30) days.

(c) The notice must:

- (1) be in writing;
 (2) state the purpose of the meeting;
 (3) state the date, time, and place of the meeting; and
 (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) Notwithstanding subsection (b)(1), if a vacancy:

- (1) is not covered by section 1 of this chapter; and**
(2) occurs due to the death of the town clerk-treasurer;

the meeting required under subsection (a) shall be held not later than thirty (30) days after the president of the town council receives notice of the town clerk-treasurer's death from the circuit court clerk under IC 5-8-5. The president of the town council may not give notice of the meeting under subsection (b) until the president of the town council receives notice of the death from the circuit court clerk under IC 5-8-5.

(e) Notwithstanding subsection (b)(2), if a vacancy:

- (1) is covered by section 1 of this chapter;**
(2) occurs due to the death of the town clerk-treasurer; and
(3) exists after the thirtieth day after the county chairman described in IC 3-13-11-3 received notice of the death from the circuit court clerk under IC 5-8-5;

the meeting required under subsection (a) shall be held not later than sixty (60) days after the county chairman described in IC 3-13-11-3 received notice of the death under IC 5-8-5.

SECTION 18. IC 3-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4. (a) A vacancy in the town council:

- (1) not covered by section 1 of this chapter; ~~or~~
 (2) covered by section 1 of this chapter, but existing after the thirtieth day after the vacancy occurs; ~~or~~
(3) covered by section 1 of this chapter, but existing after the thirtieth day after the county chairman described in IC 3-13-11-3 received notice of the death under IC 5-8-5, if the vacancy exists due to the death of the member of the town council;

shall be filled by the remaining members of the council at a regular or

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1 special meeting.

2 (b) The town clerk-treasurer shall give notice of the meeting. ~~which~~
 3 **Except as provided in subsections (d) and (e), the meeting** shall be
 4 held:

5 (1) ~~within not later than~~ thirty (30) days after the vacancy occurs
 6 if the vacancy is not covered by section 1 of this chapter; or

7 (2) ~~within not later than~~ sixty (60) days after the vacancy occurs
 8 if the vacancy **is covered by section 1 of this chapter and** exists
 9 for more than thirty (30) days.

10 (c) The notice must:

11 (1) be in writing;

12 (2) state the purpose of the meeting;

13 (3) state the date, time, and place of the meeting; and

14 (4) be sent by first class mail to each council member at least ten
 15 (10) days before the meeting.

16 **(d) Notwithstanding subsection (b)(1), if a vacancy:**

17 **(1) is not covered by section 1 of this chapter; and**

18 **(2) occurs due to the death of the member of the town council;**
 19 **the meeting required under subsection (a) shall be held not later**
 20 **than thirty (30) days after the town clerk-treasurer receives notice**
 21 **of the town council member's death from the circuit court clerk**
 22 **under IC 5-8-5. The town clerk-treasurer may not give notice of**
 23 **the meeting under subsection (b) until the town clerk-treasurer**
 24 **receives notice of the death from the circuit court clerk under**
 25 **IC 5-8-5.**

26 **(e) Notwithstanding subsection (b)(2), if a vacancy:**

27 **(1) is covered by section 1 of this chapter;**

28 **(2) occurs due to the death of the member of the town council;**
 29 **and**

30 **(3) exists after the thirtieth day after the county chairman**
 31 **described in IC 3-13-11-3 received notice of the death from**
 32 **the circuit court clerk under IC 5-8-5;**

33 **the meeting required under subsection (a) shall be held not later**
 34 **than sixty (60) days after the county chairman described in**
 35 **IC 3-13-11-3 received notice of the death under IC 5-8-5.**

36 SECTION 19. IC 3-13-10-2 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. **(a)** A vacancy
 38 in the office of township trustee not covered by section 1 of this chapter
 39 shall be filled by the board of commissioners of the county at a regular
 40 or special meeting. The county auditor shall give notice of the meeting.
 41 ~~which~~ **Except as provided in subsection (b), the meeting** shall be
 42 held ~~within not later than~~ thirty (30) days after the vacancy occurs.

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1 The notice must:

- 2 (1) be in writing;
 3 (2) state the purpose of the meeting;
 4 (3) state the date, time, and place of the meeting; and
 5 (4) be sent by first class mail to each commissioner at least ten
 6 (10) days before the meeting.

7 **(b) If a vacancy occurs due to the death of the township trustee,**
 8 **the meeting required under subsection (a) shall be held not later**
 9 **than thirty (30) days after the county auditor receives notice of the**
 10 **township trustee's death from the circuit court clerk under**
 11 **IC 5-8-5. The county auditor may not give notice of the meeting**
 12 **under subsection (a) until the county auditor receives notice of the**
 13 **death from the circuit court clerk under IC 5-8-5.**

14 SECTION 20. IC 3-13-10-3 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. **(a)** A vacancy
 16 in the office of township assessor not covered by section 1 of this
 17 chapter shall be filled by the county assessor, subject to the approval
 18 of the state board of tax commissioners. **Except as provided in**
 19 **subsection (b),** the county assessor shall make the appointment ~~within~~
 20 **not later than** thirty (30) days after the vacancy occurs. If the vacancy
 21 occurred because the elected township assessor failed to qualify or was
 22 removed, the person who is appointed must be of the same political
 23 party.

24 **(b) If a vacancy occurs due to the death of the township**
 25 **assessor, the county assessor shall make the appointment required**
 26 **under subsection (a) not later than thirty (30) days after the county**
 27 **assessor receives notice of the death of the township assessor from**
 28 **the circuit court clerk under IC 5-8-5. The county assessor may not**
 29 **fill the vacancy by appointment under subsection (a) until the**
 30 **county assessor receives notice of the death from the circuit court**
 31 **clerk.**

32 SECTION 21. IC 3-13-10-4 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4. **(a)** A vacancy
 34 on the township board of a township not covered by section 1 of this
 35 chapter shall be filled by the board of commissioners of the county at
 36 a regular or special meeting. The county auditor shall give notice of the
 37 meeting. ~~which~~ **Except as provided in subsection (b), the meeting**
 38 **shall be held within not later than** thirty (30) days after the vacancy
 39 occurs. The notice must:

- 40 (1) be in writing;
 41 (2) state the purpose of the meeting;
 42 (3) state the date, time, and place of the meeting; and



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(4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

(b) If a vacancy occurs due to the death of the township board member, the meeting required under subsection (a) shall be held not later than thirty (30) days after the county auditor receives notice of the township board member's death from the circuit court clerk under IC 5-8-5. The county auditor may not give notice of the meeting under subsection (a) until the county auditor receives notice of the death from the circuit court clerk under IC 5-8-5.

SECTION 22. IC 3-13-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 5. (a) A vacancy in the office of judge of a small claims court or small claims court constable not covered by section 1 of this chapter shall be filled by the township board at a regular or special meeting. The chairman of the township board shall give notice of the meeting. ~~which~~ **Except as provided in subsection (b), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:**

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each board member at least ten (10) days before the meeting.

(b) If a vacancy occurs due to the death of the judicial officer, the meeting required under subsection (a) shall be held not later than thirty (30) days after the chairman of the township board receives notice of the judicial officer's death from the circuit court clerk under IC 5-8-5. The chairman of the township board may not give notice of the meeting under subsection (a) until the chairman of the township board receives notice of the death from the circuit court clerk under IC 5-8-5.

SECTION 23. IC 3-13-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. (a) Except as provided in ~~subsection~~ **subsections (b) and (e)**, not later than ten (10) days after a vacancy occurs in an office subject to this chapter, the county chairman:

- (1) of the county in which the greatest percentage of the population of the election district of the office is located; and
- (2) of the same political party that elected or selected the official who vacated the office;

shall give notice of a caucus to all eligible precinct committeemen.

(b) A county chairman may give notice of a caucus before the time

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specified under subsection (a) if a vacancy will exist because the official has:

- (1) submitted a written resignation under IC 5-8-3.5; or
- (2) been elected to another office.

(c) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of a caucus under this section.

(d) **Except as provided in subsection (f)**, a caucus under this section shall be held after giving notice to caucus members under section 4 of this chapter and not later than thirty (30) days after the vacancy occurs.

(e) **If a vacancy occurs in an office due to the death of the officer, a county chairman may not give notice of a caucus under this chapter until the county chairman receives notice of the death from the circuit court clerk under IC 5-8-5. The county chairman shall give notice of the caucus to all eligible precinct committeemen not later than ten (10) days after the county chairman receives notice of the death from the circuit court clerk under IC 5-8-5.**

(f) **If a vacancy occurs in an office due to the death of the officer, a caucus under this section shall be held:**

- (1) after the county chairman gives notice to caucus members under section 4 of this chapter; and
- (2) not later than thirty (30) days after the county chairman receives notice of the death from the circuit court clerk under IC 5-8-5.

SECTION 24. IC 5-8-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 5. Notice of Death

Sec. 1. This chapter applies when a vacancy must be filled under:

- (1) IC 3-13-4;
- (2) IC 3-13-5;
- (3) IC 3-13-6;
- (4) IC 3-13-7;
- (5) IC 3-13-8;
- (6) IC 3-13-9;
- (7) IC 3-13-10; or
- (8) IC 3-13-11;

due to the death of an elective or judicial officer.

Sec. 2. Any person who knows of the death of an elective or a

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- 1 judicial officer may notify:
- 2 (1) the secretary of state, in the case of the death of a state
- 3 elective or judicial officer; or
- 4 (2) the circuit court clerk of the county in which the elective
- 5 or judicial officer resided, in the case of the death of:
- 6 (A) an elective officer; or
- 7 (B) a judicial officer;
- 8 of a county, city, town, or township.
- 9 **Sec. 3. (a) When the secretary of state:**
- 10 (1) obtains information concerning the death of a state
- 11 elective or judicial officer by:
- 12 (A) receiving notice of the death under section 2 of this
- 13 chapter; or
- 14 (B) personally learning of the death; and
- 15 (2) is reasonably satisfied that the information described in
- 16 subdivision (1) is true;
- 17 the secretary of state shall give notice of the death to the person
- 18 described in subsection (b).
- 19 (b) The secretary of state shall give the notice required by
- 20 subsection (a) to:
- 21 (1) the person who must give notice of any meeting or caucus
- 22 required to fill the vacancy caused by the death; or
- 23 (2) if no meeting or caucus is required to fill the vacancy, the
- 24 person who has the power to fill the vacancy.
- 25 **Sec. 4. (a) When a circuit court clerk:**
- 26 (1) obtains information concerning the death of an elective or
- 27 judicial officer of a county, city, town, or township by:
- 28 (A) receiving notice of the death under section 2 of this
- 29 chapter; or
- 30 (B) personally learning of the death; and
- 31 (2) is reasonably satisfied that the information described in
- 32 subdivision (1) is true;
- 33 the circuit court clerk shall give notice of the death to the person
- 34 described in subsection (b).
- 35 (b) The circuit court clerk shall give the notice required by
- 36 subsection (a) to:
- 37 (1) the person who must give notice of any meeting or caucus
- 38 required to fill the vacancy caused by the death; or
- 39 (2) if no meeting or caucus is required to fill the vacancy, the
- 40 person who has the power to fill the vacancy.

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